IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO.14312 OF 2006

DATE OF DECISION: 11.09.2006

Neetu Kamboj ....Petitioner

Versus

State of Punjab and others ...Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. Sameer Sachdeva, Advocate for the petitioner.

J.S. Khehar, J. (oral)

The issue raised in the instant writ petition pertains to the eligibility of the petitioner for appointment to the post of Science Mistress (Non-Medical). So as to fill up the aforesaid posts, the respondents first issued an advertisement dated 11.6.2006 and then a corrigendum dated 23.8.2006. It is the vehement contention of the learned counsel for the petitioner that the advertisement coupled with the corrigendum are not in consonance with the statutory rules, and as such, the same cannot be accepted in law.

There can be no doubt about the validity of the aforesaid contention of the learned counsel for the petitioner. The only question, therefore, is whether the petitioner is eligible for appointment to the post of Science Mistress (Non-Medical) prescribed under the statutory rules. The relevant statutory rule, laying down the qualification for promotion to the

post of Science Mistress (Non-Medical) from the Punjab State Education Class III (School Cadre) Service Rules, 1978, has been reproduced in paragraph 3 of the instant writ petition. The same is being extracted hereunder for facility of reference:-

APPENDIX

(See Rule 5)

Sr. No.	Designation of Post.	Minimum Qualification	Method of Recruitment Direct	Promotion
3.(i)(a)	Master	Graduate of recognised University with BT or B.Ed. or B.Sc. with BT or B.Ed. Basic trained with any two of the four subjects in B.Sc. namely Physics, Chemistry, Botany and Zoology. OR B.A. with Mathematics `A' Course and Physics or Geography or BT or B.Ed. or Senior Basic Trained.	75%	xxx

To gain eligibility for appointment to the post of Science Mistress (Non-Medical) the petitioner should possess the qualification of:-

"Graduate of recognised University with BT or B.Ed. or B.Sc. with BT or B.Ed. Basic trained with any two of the four subjects in B.Sc. namely Physics, Chemistry, Botany and Zoology"

OR

"B.A. with Mathematics `A' Course and Physics or Geography or BT or B.Ed. or Senior Basic Trained."

It is, therefore, that we called upon the learned counsel for the petitioner to inform us, under which of the aforesaid two alternatives the petitioner claims eligibility. Learned counsel for the petitioner clearly and in unequivocal terms informs us that the petitioner desires to claim eligibility

under the following part of the aforesaid clause:-

"Graduate of recognised University with BT or B.Ed. or B.Sc. with BT or B.Ed. Basic trained with any two of the four subjects in B.Sc. namely Physics, Chemistry, Botany and Zoology".

It is, therefore, that we take upon ourselves the task of determining whether the petitioner was eligible for appointment to the post of Science Mistress (Non-Medical) under the aforesaid clause. It is conceded by the learned counsel for the petitioner that the petitioner possesses the qualification of B.Sc. but the subjects in which the petitioner has qualification her B.Sc. examination do not include two of the four subjects included in the clause, namely, Physics, Chemistry, Botany and Zoology. Out of the aforesaid four subjects, the petitioner has qualified the B.Sc. examination with Physics alone. It is the contention of the learned counsel for the petitioner that Mathematics ought to have been one of the qualifications, to be taken into consideration for appointment to the post of Science Mistress (Non-Medical). The pointed contention of the learned counsel for the petitioner may be noticed as under:-

> " That while making the perusal of the statutory Rules, it is apparent and vivid that a candidate who has to be recruited for the post of Science Master/Mistress should have passed in two subjects out of the four subjects in B.Sc. namely Physics, Chemistry, Botany and Zoology. For Medical Group and B .A. with Mathematics `A' Course and Physics or Geography for the Non-medical group, meaning thereby that an eligible candidate is to pass two subjects out of four. Therefore the petitioner who

has passed Mathematics along with Physics as a subject in B.Sc. course is fully eligible for the post of Science Master (Non-Medical) as per the statutory "The Punjab State Education Class III (School Cadre) Service Rules, 1978' as amended in 1995."

It is not possible for us to accept the aforesaid contention of the learned counsel for the petitioner. Since the vires of the statutory rules, laying down the qualification for appointment to the post of Science Mistress (Non-Medical) have not been impugned before this Court, it is clear that the petitioner was unqualified for appointment to the post of Science Mistress (Non-Medical) as she did not qualify the B.Sc. examination with two of the subjects out of the four subjects depicted in the clause, under which she claimed eligibility. In the aforesaid view of the matter, the petitioner was not eligible for appointment by way of direct recruitment to the post of Science Mistress (Non-Medical), even in terms of the statutory rules relied upon by her.

It wold be pertinent to mention that the learned counsel for the petitioner relied upon the judgment rendered by this Court in Kuldeep Kaur and others V. State of Punjab and others (CWP No.1415 of 2002 decided on 19.12.2002), as also, the decisions rendered by this Court in Vishvas Kumar and others V. State of Punjab and others (CWP No.19446 of 2001 decided on 9.12.2003), and Neetu Kamoj and others V. State of Punjab and others (CWP No.9935 of 2006 decided on 25.7.2006). In so far as the latter two judgments are concerned, the orders passed therein were passed on concessional statements made at the hands of the learned counsel

representing the respondents. In so far as the judgment rendered in Kuldeep Kaur's case (supra) is concerned, the same did not interpret the statutory rules, in order to determine whether or not the petitioners therein were eligible for appointment by way of direct recruitment to the posts under reference. In Kuldeep Kaur's case (supra) the Court merely arrived at the conclusion that the statutory rules clearly depicted that the petitioners were eligible. The judgment rendered in Kuldeep Kaur's case (supra), in our view, does not lay down any law, nor can the same be treated as ratio decidendi, on the issue raised by the learned counsel for the petitioner.

Dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

September 11, 2006.
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